

mail, will be treated as the date of delivery of the return and also of the remittance, if included.

(b) *Payment by courier or other private delivery service.* A proprietor may send a return, with or without remittance, by courier or other private delivery service. If the proprietor sends the return with or without remittance with a courier or private delivery service that is available to the general public and that is at least as timely and reliable as the U.S. mail, and the delivery service has tracking and tracing procedures for its deliveries, TTB will consider the date of tender to the delivery service as recorded in the tracking and tracing record for the parcel as the date of delivery. If the proprietor sends the return, with or without remittance, by courier or other private delivery service that does not meet the above requirements, the actual date of delivery to TTB will be treated as the date of delivery of the return and also of the remittance, if included.

(26 U.S.C. 6302)

**§ 19.239 Form of payment.**

(a) *General.* The proprietor must pay the tax due on spirits when filing a return on form TTB F 5000.24, Excise Tax Return. The remittance for the tax must accompany the return and may be in any form that is authorized by § 70.61 of this chapter and acceptable to the appropriate TTB officer. Exception: This does not apply to payments that must be made by EFT. For EFT payments see § 19.240.

(b) *Consequences of default.* If a check or money order tendered in payment of taxes is not paid on presentment, or if the taxpayer is otherwise in default in payment, then any remittance made during the period of default must be either in cash or by an acceptable certified instrument. The proprietor must continue to pay in cash or by certified instrument as long as the proprietor remains in default, and until the appropriate TTB officer finds that accepting a check will not jeopardize the revenue.

(c) *Certified instruments.* Acceptable certified instruments include certified checks, cashier's checks or treasurer's checks drawn on any bank or trust company incorporated under the laws

of the United States, or under the laws of any State, Territory or possession of the United States, or a money order, as provided in § 70.61 of this chapter.

(d) *Payment of taxes.* The proprietor must make checks or money orders payable to "Alcohol and Tobacco Tax and Trade Bureau".

(26 U.S.C. 5061, 6311)

**§ 19.240 Payment of tax by electronic fund transfer.**

(a) *General.* —(1) *Criteria requiring ETF payment.* Under certain conditions, a proprietor may not make payments by cash, check, or money order. Instead, the proprietor must use the services of a commercial bank to pay tax on distilled spirits tax by EFT. Payments must be made by EFT in the current calendar year if the proprietor, as a taxpayer, was liable for \$5 million or more in taxes on distilled spirits during the prior calendar year. For the purpose of determining whether the proprietor is subject to this requirement, the proprietor must use the total amount of tax liability on distilled spirits incurred under this part and parts 26 and 27 of this chapter (gross tax liability). Gross tax liability includes the distilled spirits tax on all taxable withdrawals of spirits and taxable importations of spirits, as well as tax on spirits brought into the United States from Puerto Rico and the Virgin Islands during the calendar year. This figure includes taxes incurred at any and all premises at which the proprietor conducts regulated activities. The proprietor may not net out or adjust for any drawback, credits or refunds of tax that are allowed. Overpayments made in excess of actual tax liability will not be included in the gross tax liability figure.

(2) *Controlled group.* If the taxpayer is a member of a controlled group, the controlled group is treated as a single taxpayer when calculating liability of \$5 million or more in distilled spirits taxes during the prior calendar year. A controlled group is a related group of taxpayers and is defined in subpart D of part 70 of this chapter.

(3) *Separate return and payment for each DSP.* When the proprietor makes payments by EFT, the proprietor must file a separate return on form TTB F